

## § 29.9403

provide the best and most equitable service to all growers.

### **§ 29.9403 Flue-Cured Tobacco Advisory Committee.**

To assist the Secretary in making the apportionment and assignment of inspectors, a Flue-Cured Tobacco Advisory Committee, appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix I), shall advise and recommend to the Secretary marketing area opening dates and selling schedules for both designated and undesignated flue-cured tobacco to be sold in each marketing area and in each warehouse within each marketing area.

[39 FR 30475, Aug. 23, 1974, as amended at 49 FR 4067, Feb. 2, 1984; 50 FR 45806, Nov. 4, 1985; 51 FR 5987, Feb. 19, 1986; 67 FR 61468, Oct. 1, 2002]

### **§ 29.9404 Marketing area opening dates and marketing schedules.**

(a) The Flue-Cured Tobacco Advisory Committee shall recommend, to the Secretary, marketing areas in the flue-cured tobacco production area and marketing area opening dates and selling schedules for both designated and undesignated tobacco for each marketing area and for the individual warehouses in each marketing area, which specify the length of time inspectors will be available to inspect designated tobacco and undesignated tobacco and/or the quantity of designated or undesignated tobacco to be marketed in each area and through each warehouse within such marketing area. In developing such opening date and selling schedules, the Committee shall take into account the following:

(1) When a sufficient volume of tobacco produced within a specific area of the flue-cured tobacco production area will be ready for marketing;

(2) The volume of tobacco ready for marketing which the producers have designated under § 1464.2(e) of this title to be sold at specific warehouses and also the volume of tobacco ready for marketing which has not been so designated by the producer;

(3) With regard to undesignated tobacco, the Committee shall first determine, on the basis of all information available to it, the volume of undesignated

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tobacco in a geographical area, and then shall provide sales opportunity for each warehouse to sell an amount of the undesignated tobacco available for sale from that geographical area in proportion to the amount of tobacco designated to the warehouse in comparison to the total amount of tobacco designated in the marketing area in which the warehouse is located. Provided, however, that the Secretary may authorize additional undesignated sales opportunity if the warehouse provided proper proof that it does, in fact, have available for sale a volume of tobacco which has not previously been designated and which was eligible for designation to that warehouse had the producer chosen to designate and that such additional volume of tobacco warrants more sales opportunity than allowed by the schedule;

(4) The processing or redrying capacity of the industry and the number of inspectors available to provide inspection service during the specific period involved;

(5) Such other factors or information as may be necessary to develop an effective and equitable opening date and selling schedule.

(b) The Flue-Cured Tobacco Advisory Committee shall thereupon submit its recommended opening date and selling schedules for designated and undesignated tobacco and the geographic areas to be included in specific marketing areas to the Secretary together with a basis supporting its recommendations.

[39 FR 17754, May 20, 1974, as amended at 39 FR 30476, Aug. 23, 1974; 40 FR 24174, June 5, 1975; 40 FR 30917, July 24, 1975]

### **§ 29.9405 Issuance of marketing area opening date and selling schedules by the Secretary.**

(a) The Secretary shall review the recommendations of the Flue-Cured Tobacco Advisory Committee and based upon such recommendations and the basis therefor and such other information as may be available to him, shall specify the geographic areas to be encompassed by specific marketing areas, set the opening dates for sale within the marketing areas and issue the selling schedules for designated and undesignated tobacco. The inspection